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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

AVERY BADENHOP,

Defendant.

<sup>71065</sup>  
CR No. 10-mj-~~70165~~ MAG

**STIPULATION AND [PROPOSED]  
ORDER CHANGING HEARING DATE,  
EXTENDING TIME LIMITS OF RULE  
5.1(c), AND EXCLUDING TIME**

On December 22, 2010, the defendant had his initial appearance on a criminal complaint. At that time, the Court set January 18, 2011 as the date for a preliminary hearing / arraignment. On January 6, 2011, the parties in this case appeared before the Court for a hearing regarding the appointment of counsel.

The parties respectfully request that the date for the preliminary hearing / arraignment be changed to February 2, 2011 and that the time limits provided by Federal Rule of Criminal Procedure 5.1(c) be extended through that date. Pursuant to Rule 5.1(d), the defendant consents to this extension of time, and the parties represents that good cause exists for this extension, including the effective preparation of counsel.

STIPULATION & [PROPOSED] ORDER CHANGING HEARING DATE AND EXCLUDING TIME  
CR 10-mj-71065 MAG

1 The parties also request that time from January 6, 2011 through February 2, 2011 be  
 2 excluded from any time limits applicable under 18 U.S.C. § 3161. The parties represent that  
 3 granting the exclusion will allow the reasonable time necessary for effective preparation of  
 4 counsel. See 18 U.S.C. § 3161(h)(7)(B)(iv). The parties also agree that the ends of justice  
 5 served by granting such an exclusion of time outweigh the best interests of the public and the  
 6 defendant in a speedy trial. 18 U.S.C. § 3161(h)(7)(A).

7 SO STIPULATED:

8 MELINDA HAAG  
 United States Attorney

9 DATED: January 14, 2010

10 /s/  
 KEVIN J. BARRY  
 Assistant United States Attorney

11 DATED: January 14, 2010

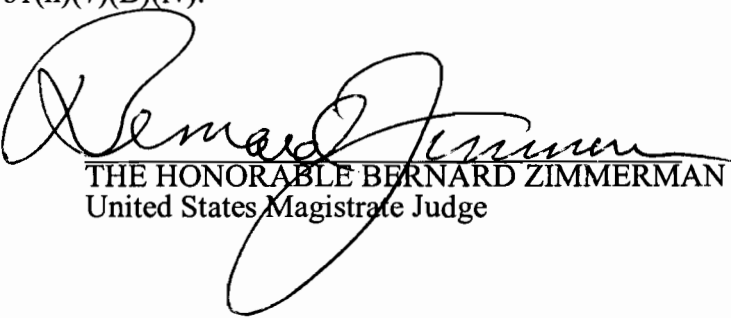
12 /s/  
 DOUGLAS L. RAPPAPORT  
 Attorney for AVERY BADENHOP

13  
 14 [PROPOSED] ORDER

15 For the reasons stated above, the Court changes the date for the preliminary hearing /  
 16 arraignment from January 18, 2011 to February 2, 2011. The Court also finds that the extension  
 17 of time limits applicable under Federal Rule of Criminal Procedure 5.1(c) from January 6, 2011,  
 18 through February 2, 2011 is warranted; that exclusion of this period from the time limits  
 19 applicable under 18 U.S.C. § 3161 is warranted; that the ends of justice served by the  
 20 continuance under Rule 5.1 outweigh the interests of the public and the defendant in the prompt  
 21 disposition of this criminal case; and that the failure to grant the requested exclusion of time  
 22 would deny counsel for the defendant and for the government the reasonable time necessary for  
 23 effective preparation, taking into account the exercise of due diligence, and would result in a  
 24 miscarriage of justice. 18 U.S.C. §3161(h)(7)(B)(iv).

25 IT IS SO ORDERED.

26 DATED: 8 Jan 11

27   
 THE HONORABLE BERNARD ZIMMERMAN  
 United States Magistrate Judge